From: Peter M Anderson
To: Microsoft ATR
Date: 1/22/02 6:24am
Subject: Microsoft Settlement

In reference to the federal settlement with Microsoft regarding its monopolistic and predatory practices, I have some comments. They can all, however, be summed up in one sentence:

The settlement, as written, is a bad idea.

As a long time user of Microsoft products, and student of their actions, I have the following comments.

Fact: Microsoft has been convicted of illegally extending its monopoly through the use of predatory practices. These have ranged from outright plagiarism of competitors products (as when they included source code from Stacker in DOS 6.0, and when beaten in court promptly bought up Stacker for significantly less than the penalty), to deliberate inclusion of code to decrease performance of competitors products (I can recall installing an earlier version of Wordperfect Office Suite on a Windows 3.1 machine, a process which took over 12 hours to complete. Meanwhile, Microsoft office installed in a relatively short timespan.) to deactivation of competitors software on installation of MS software (again, a recent installation of Wordperfect Office Suite 2000 on my Dell Laptop was rendered inaccessible after I subsequently installed Microsoft Office). This is not opinion, these actions have been substantiated in court proceedings and by analysis of independent software developers.

Fact: Microsoft is continuing to extend its monopoly even in the face of legal proceedings. This is a continuation of their behavior following the DOJ suit regarding bundling of applications with Windows 95- not only have they continued to bundle software, in the process moving into competitors markets, but they have increased the amount of the bundling (as is evident in Windows XP). While the Windows 95 lawsuit was particularly concerned with the bundling of Internet Explorer, now a significant number of previously 3rd party products are moot- with the inclusion of MS Media Player among other software innovation is driven from the marketplace in Microsoft's move towards inclusion.

Fact: The settlement, as presently written, will only serve to allow Microsoft to further extend its monopolistic position into areas where it does not currently have a strong position- specifically the educational K-12 market in which Apple Computer is a strong player. The "donation" of software and hardware to "disadvantaged" schools will serve only to entrench Microsoft in those locations, which will subsequently be directed into the spiraling costs of future hardware and software upgrades as Microsoft continues to massage its licensing models. The "donation" of software (for which Microsoft will, I am sure, take a significant tax deduction using overinflated value for its product) will cost Microsoft little and gain it a tremendous foothold- this is hardly something which I or any reasoning person would consider a fit punishment for illegal practices.

Fact: If allowed to continue on its current path unpunished, Microsoft will continue to extend its presence. Through its .NET initiative, redirection of browser page errors in Windows XP/Explorer to the Microsoft Network and its forays into games (XBox) Microsoft continues to extend its reach. As demonstrated by its current lawsuit against LindowsOS, Inc Microsoft is still exercising its schoolyard bully persona to drive out potentially competing products.

Please note, the objection here is not to competition- for healthy competition spurts development of new products and is of benefit to consumers. It is to predatory and unfair competition, which Microsoft has

consistently been demonstrated as exercising, and which stifles innovation to the detriment of consumers.

With the above in mind, it would be wrong to object without offering other options. I would suggest the following:

1)Microsoft be required as a condition of settlement to donate CASH amounts to eligible schools, which can use monies to purchase whichever technologies they deem necessary.

2)Microsoft be required to publish their Application Programming Interfaces (API's) to ALL interested parties (including those in the Open Source community) and not just hose parties which Microsoft recognizes as business entities. Note this is not the same as requiring them to publish their source code- only the links to programs to aid competitors in developing new and innovative products.

3)Microsoft be regulated. Due to its pervasive in the computer marketplace, it can legitimately be argued that Microsoft now functions more as a Utility than as a software provider. Even in an atmosphere of deregulation, utility companies have strict guidelines to follow to conduct business- Microsoft, to date, does not and has shown complete disregard for previous court rulings against the company. Regulation may include, but not be limited to, separation of the application and OS sections of the business, which may spur development of competing products.

4)Microsoft be discouraged from releasing incomplete products (as reference I cite the huge security hole discovered upon release of WindowsXP) by rewriting of liability laws to allow injured parties to seek damages in the event they are affected by "buggy" software. This should, I believe, be limited to software sold "for profit"- extending it to cover "free" software such as software distributed under Open Source models would only serve to stifle innovation.

Without significant changes to the settlement as currently worded, Microsoft will be rewarded, not punished, for actions which have driven competitors into niche markets (or out of business) and will continue to extend its monopoly throughout society. The future of innovation within the software industry is in your hands.

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